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United States Senate

SPECIAL COMMITTEE ON AGING

WASHINGTON, DC 20510-6400

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April 28, 2023

U.S. Attorney General Merrick Garland
950 Pennsylvania Avenue NW
Department of Justice
Washington, D.C. 20530

Chair Lina Khan
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, D.C. 20580

Dear Attorney General Garland and Chair Khan:

We write with growing concern regarding hospital consolidations across the country and the resulting impacts on health care quality, costs, and the workforce. As members of the U.S. Senate Special Committee on Aging, we are particularly concerned about the impact of hospital consolidation on older adults and people with disabilities. We urge you to utilize the full range of your oversight and remedial authorities to defend competition and a safe and strong hospital system.

On July 9, 2021, President Biden issued an Executive Order, which included a directive for antitrust agencies to focus on hospital consolidation as part of their response to corporate consolidation. Specifically, the president urged the Department of Justice and the Federal Trade Commission to “review and revise” merger guidelines to ensure patients are not harmed. We request the Administration to provide us updates on the progress of these recommendations and priorities regarding consolidation in domestic health care markets.

While the COVID-19 pandemic contributed to the shift towards consolidation in the health care industry, this trend was occurring well before the pandemic and has contributed to these negative trends. Rapid consolidation of hospitals and health systems has become more common across the country over the past few decades. According to the American Hospital Association, between 1998 and the end of 2021, there were 1,887 hospital mergers announced, reducing the number of hospitals from 8,000 to 6,000 nationwide.¹ The top ten health systems now control nearly a quarter of the market share, and their revenue has grown at twice the rate of the rest of the market.² These consolidations and closures are especially stark in rural areas; since 2010, more than 151 rural hospitals have closed, including 37 over the last three years.³

¹<https://ldi.upenn.edu/our-work/research-updates/hospital-consolidation-continues-to-boost-costs-narrow-access-and-impact-care-quality/#:~:text=%E2%80%99CIt's%20not%20a%20new%20trend,to%20around%20just%20over%206%2C000.%E2%80%9D>

²<https://www2.deloitte.com/us/en/insights/industry/health-care/hospital-mergers-acquisition-trends.html>

³<https://www.shepscenter.unc.edu/programs-projects/rural-health/rural-hospital-closures/>

Furthermore, health system acquisitions of physician practices have also steadily increased, including during the COVID-19 pandemic. Hospitals acquired 4,800 physician practices between January 2019 and January 2022, increasing hospital-owned practices by nine percent. As of January 2022, 74 percent of physicians work for a hospital or corporate entity, growing by 19 percent since January 2019.⁴

While the economy continues to improve under President Biden's leadership, consolidation in the health care industry at-large has driven up prices for consumers and driven down wages for workers. Evidence shows that hospitals with fewer competitors charge significantly higher prices. For example, hospitals without a competitor nearby charge 12 percent higher on average than hospitals with three or more competitors nearby. Prices in hospitals with one nearby competitor are on average 7.3 percent higher.⁵ These higher prices are often not accompanied by better quality care, and studies suggest higher rates of consolidation may lead to higher mortality rates.⁶ While higher rates of consolidation may promote efficiency and increase care coordination, studies show that merged hospitals and integrated systems are not less costly or higher quality than their independent peers.

Decades of health system consolidation leave communities without access to necessary care. Those most affected by downsizing and closing certain outpatient services, a common byproduct of health system consolidation, are people of color, older adults, and people with disabilities. Independent hospital closures or mergers with larger health systems occur in rural and urban areas and can cause significant strain on their communities.⁷

While higher costs and lower quality care are concerning outcomes from increasing hospital consolidation, we are also worried about the impact to the workforce. There is strong evidence that hospital mergers lead to reduced workers compensation and benefits, as well as the loss of employment options for health care workers.⁸ There is a clear link between hospital consolidation and wage stagnation in one of the most critical areas of our workforce.⁹ Also, the nation faces a health care workforce shortage that has been severely exacerbated by the COVID-19 pandemic. An aging workforce, burnout, and the lack of nursing faculty are all factors contributing to the overall staffing shortage, and the World Health Organization has predicted a shortfall of 15 million health care workers by 2030.

We appreciate your time and attention in answering the following questions:

⁴ <https://revcycleintelligence.com/news/physician-practice-acquisitions-by-hospitals-corporations-grew>

⁵ https://www.judiciary.senate.gov/imo/media/doc/Gaynor_Senate_Judiciary_Hospital_Consolidation_May_19_2021.pdf

⁶ https://www.judiciary.senate.gov/imo/media/doc/Gaynor_Senate_Judiciary_Hospital_Consolidation_May_19_2021.pdf

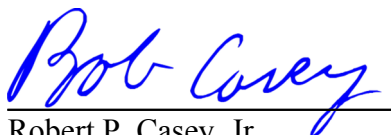
⁷ <https://communitycatalyst.org/posts/addressing-the-impact-of-hospital-consolidation-on-health-equity/>
⁸ <https://www.acaweb.org/articles?id=10.1257/aer.20190690>

⁹ <https://www.acaweb.org/articles?id=10.1257/aer.20190690>

1. Since President Biden issued the Executive Order on “Promoting Competition in the American Economy” in June 2021, what specific steps has your agency or department taken to address the impact of hospital consolidation on health care costs, patient care, and the health care workforce?
2. Hospital consolidations can have greater negative impacts in certain areas, such as rural communities, and on populations that face challenges in accessing quality, affordable health care, such as people with disabilities, people with low incomes, and communities of color. In its regulatory and enforcement actions, how does your agency or department assess the impact of hospital consolidation on these communities?
3. The COVID-19 pandemic further taxed the already stressed health care workforce, and reduced competition in the health care industry has further limited their employment opportunities. In its regulatory and enforcement actions, how does your agency or department assess the impact of hospital consolidation on health care workers?
4. How do the Department of Justice (DOJ) and the Federal Trade Commission (FTC) coordinate to ensure a consistent approach to regulatory and enforcement action when addressing the effects of mergers and acquisitions in the health care industry?
5. How do the DOJ and FTC work with other federal partners, including the Department of Health and Human Services (HHS) and the Department of Labor (DOL), on issues related to hospital consolidation and its impact on patient care quality, accessibility, and the health care workforce?

Thank you for your consideration. We commend the Biden Administration for being a champion for promoting competition across the economy. We look forward to working with you to craft responsive policies that address the negative impacts of hospital consolidation on health care quality, cost, and the workforce.

Sincerely,



Robert P. Casey, Jr.
United States Senator
Chairman, Special Committee
on Aging



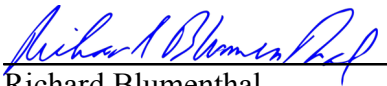
John Fetterman
United States Senator



Elizabeth Warren
United States Senator



Raphael Warnock
United States Senator


Richard Blumenthal
United States Senator

CC: DOL, HHS, White House